

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JOHN DOE 414, et al.

APPELLANTS,

v.

FATHER SHAWN RATIGAN, et al.

RESPONDENTS.

DOCKET NUMBER WD78298

DATE: November 10, 2015

Appeal From:

Clay County Circuit Court
The Honorable Larry D. Harman, Judge

Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorneys:

Rebecca M. Randles and Sara A. Brown, Kansas City, MO, for appellants.

Spencer J. Brown and Mimi E. Doherty, Kansas City, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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Before Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

The Doe Family appeals from the trial court's grant of summary judgment in favor of defendants Diocese of Kansas City-St. Joseph and Bishop Robert Finn on the Doe Family's claims for damages for acts alleged to have been engaged in by Father Shawn Ratigan.

AFFIRMED

1. The Doe Family is not entitled to an affirmative inference establishing an essential element of claims asserted against the Diocese based on Ratigan's alleged spoliation of a personal cell phone.

2. The uncontroverted facts demonstrate that the Doe Family cannot establish a consequent and proximately caused injury, an essential element of their claim of fraudulent nondisclosure, without conjecture and speculation.

3. The trial court could have entered summary judgment in favor of the Diocese and Finn because the uncontroverted facts and the law precluded finding the Diocese and Finn liable for Ratigan's violation of section 537.047 on the theory of *respondeat superior*, aiding and abetting, or ratification.

4. The "master's premises or chattels" requirement, an essential element of a claim of intentional failure to supervise clergy, is not established based solely on a servant's status as such.

5. The Doe Family's negligent failure to supervise clergy claim is barred by this court's decision in *Gibson*. Moreover, there is no private cause of action for violation of section 210.115.

6. The Doe Family cannot establish that Ratigan took obscene pictures of Doe 413, an essential element of their claims for invasion of privacy and violation of section 537.046. In any event, we conclude that nonperpetrators cannot be held liable for a perpetrator's childhood sexual abuse under section 537.046.

Opinion by Cynthia L. Martin, Judge

November 10, 2015

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